

REMARKS

Claims 58-77 are currently pending in the subject application and are presently under consideration and claims 1-57 have been cancelled. The Examiner is thanked for courtesies extended in a discussion regarding this response on September 12, 2008. The discussion pertained to the merit of the notice non-compliant amendment of September 5, 2008. No agreement was reached and the Examiner requested that the assertion of why the non-compliant notice is improper. The discussion was conducted with Ronald Krosky (Reg. No. 58,564) and Examiner Mizrahi.

MPEP 714 (section C) states there are seven appropriate status identifiers, one of which being 'previously presented' – 'previously presented' is used as an identifier for claim 58, which is the claim brought into question by the outstanding notice of non-compliant amendment. The Examiner requested that the identifier be changed to 'previously amended', which is listed as an alternative to 'previously presented' in MEPE 714 (section C). Since the previous response listed the claim with an actual identifier as designated in 37 CFR 1.121(c), there is no reason to request the response to list an alternative as it can be viewed as more proper to use an actual identifier as opposed to an alternative. Moreover, what is used to identify the status of claim 58 is proper according to MPEP 714 regardless of being an actual identifier or allowable alternative. Thus, it is improper designate the previous response as non-complaint based upon using 'previously presented' as opposed to 'previously amended'. Therefore, it is respectfully requested that the notice of a non-compliant amendment be withdrawn.

CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [MSFTP122USA].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

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